



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision Request for Variance Marshall Family Trust/Map 29, Lot 10

August 8, 2013

**Applicant: Marshall Family Trust
c/o Esther Pappas
42 South Street
Yarmouth, ME 04096**

Location: 46 Wiggin Farm Road, Moultonborough, NH (Tax Map 29, Lot 10)

On August 7, 2013, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of the Marshall Family Trust (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article III (A), to permit a second "dwelling" addition to the existing family house on the parcel located in the Residential Agricultural (RA) Zoning District.

Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 46 Wiggin Farm Road (Tax Map 29, Lot 10).
- 2) The applicant is a member of the Trust which consists of Trustees: Esther, H. James Jr., James III, and Peter Marshall and Esther Pappas who are owners of record for the lot.
- 3) Peter Marshall presented the application for the variance.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District.
- 5) The Minimum Lot Size per dwelling unit for the subject Lot is 90,000 square feet. The Lot of record is 2.55 +/- acres or 110,920 +/- square feet.
- 6) The minimum shore frontage for two dwellings on a lot is 300 feet. The Lot of record has 312 +/- feet along the Reference Line and 283 +/- feet Straight Line Shore Distance, with an average of 297.5 +/- feet.

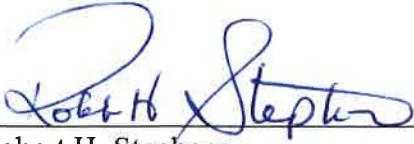
- 7) One letter of support was noted for the record.
- 8) No members of the public wished to speak during the public hearing.
- 9) Granting the Variance would not be contrary to the public interest as the applicant can demonstrate that he has a new septic design approval from the state for the stated ten bedrooms and there appears to be adequate land for a well, thereby not overburdening the land.
- 10) Granting the Variance would be consistent with the spirit of the Ordinance because the intent of the requirement is to not overburden the land where there is a need for effluent disposal and area for a well. The spirit is met because the applicant can demonstrate that he has a new septic design approval from the state for the stated eleven bedrooms (once issued by DES) and there appears to be adequate land for a well.
- 11) By granting the Variance, substantial justice would be done because there would be no gain to the public benefit at all from a denial of the request for two dwelling units in one building on the moderately sized lot that appears to no overburden the land.
- 12) Granting the Variance would not diminish the value of surrounding properties as the outward appearance of the residence will not significantly change or resemble that of a duplex, and said requested use is not intended as a rental.
- 13) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the area of the lot meets the requirements for a larger, expanded septic because of its large size, but doesn't meet the Town's soils and slopes criteria, making it unique; and the shore front distance is also greater than most lots in the area, but is only substandard when the measurable distance is averaged between the actual shorefront and the straight line measurement by a few feet.
- 14) On August 7, 2013, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Nolin, Zewski, Bickford, Crowe) and none (0) opposed to grant the request for a variance, subject to an approved NH DES septic design permit for an eleven (11) bedroom system, that the second kitchen be removed should the Trust ever sell the property, and that the Notice of Decision be recorded at the Carroll County Registry of Deeds, and that a foundation certificate survey be submitted at the time of application for building permit to the Office of Development Services,

...and to close the Public Hearing. They moved to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting.

The Board of Adjustment, on September 4, 2013, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file by a vote of five (5) in favor (Stephens, Nolin, Bickford, Crowe, Hopkins), none (0) opposed.

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The decision made to Approve the variance on August 7, 2013 shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.



Robert H. Stephens
Chairman, Zoning Board of Adjustment

Date 9-4-2013